

Judge Altice, cont.

nal Division 2 from 2001 to 2012, he presided at 250 major felony jury trials, including 75 murder trials (seven death penalty trials).

While presiding over some of the most serious criminal matters in the state, Judge Altice also served as chair of the Marion Superior Court Criminal Term from 2005 to 2007, as a member of the Executive Committee for the Marion Superior Court from 2007 to 2009, and as Presiding Judge of the Marion Superior Court from 2009 to 2011. As the Presiding Judge, he was responsible for the administration of the Marion Superior Court, with an annual budget of \$50 million, and managed a court staff of more than 850 employees. He also hosted a TV show on the government access channel, titled "Off the Bench," in which other civic leaders appeared as guests to discuss public affairs.

Judge Altice moved to the civil division of the Marion Superior Court in 2013, where he officiated at 15 civil jury trials in Superior Court 5. Judge Altice was appointed chair of the Marion Court Civil Term in January 2015.

Throughout his judicial career, Judge Altice has held leadership roles in organizations that improve the administration of justice. He accepted special assignments from the Indiana Supreme Court on the Judicial Performance Task Force, which examined whether judicial evaluations might be useful in Indiana, and the Cameras in the Courtroom project, which allowed cameras in certain courtrooms under limited conditions. During Judge Altice's tenure on the Marion County Community Corrections Advisory Board, the Duval Work Release Center in Marion County was built and opened.

Judge Altice is a member of the Indiana Judges Association, the Indiana State Bar Association, and the Indianapolis Bar Association. He served on the Board of Directors of the Judicial Conference of Indiana, is a member and past president of the Sagamore American Inn of Court, was a member from 2010 to 2015 of the Indiana Judicial Conference Civil Bench Book Committee, and was a member and former chair of the Indiana Judicial Conference Community Relations Committee. In April 2015, Judge Altice was appointed to serve on an ad hoc Indiana Tax Court Advisory Task Force.

His community activities include prior service on the Board of Directors of these organizations: Indianapolis Police Athletic League; the Martin Luther King Community Development Corp.; and Coburn Place Safe Haven, a transitional housing facility for domestic abuse victims. Judge Altice also participated on the Super Bowl Legal Subcommittee. He has presented on legal and ethical issues for the Indiana Continuing Legal Education Forum, the Indiana Judicial Center, and various Indiana bar associations. In his spare time, he enjoys gardening, golf and reading.

He and his wife, Kris, an attorney who is General Counsel for Shiel Sexton, have two adult children.

Judge Najam, cont.

"Caught in the Middle: A National Symposium on the Role of State Intermediate Appellate Courts," attended by judges from 22 states, the first such national conference.

He has served as a member of the Indiana Supreme Court Committee on Rules of Practice and Procedure (1995 to 2005) and the Indiana Supreme Court Judicial Technology and Automation Committee (1999 to 2005), and he represents the judiciary on the Indiana Department of Homeland Security Counter-Terrorism and Security Council.

Judge Najam is a member of the American, Indiana, and Monroe County Bar Associations, a graduate of the Indiana Graduate Program for Judges, a Fellow of the American, Indiana and Indianapolis Bar Foundations, a member of the Indiana University Maurer School of Law Board of Visitors, a member of Phi Delta Phi legal fraternity, and an Eagle Scout. Judge Najam and his wife live in Bloomington.

Judge Baker, cont.

In 2011 he joined the Board of Trustees of Garrett-Evangelical Theological Seminary in Evanston, IL, where he serves on the board's Academic Affairs committee.

Judge Baker was retained by election in 1992, 2002 and 2012. He and his wife have five children and – so far – nine grandchildren.

Knox County was organized in 1790



Indiana doesn't have a lot of 200-year-old buildings, but Hoosiers are fortunate that the first state capitol is one of them.

The simple limestone structure, completed in 1816, is the heart of the Corydon Historic District in Harrison County, as listed on the National Register of Historic Places. Corydon served as the seat of Harrison County government, as territorial capital of the Indiana Territory, and as Indiana's first state capital, from 1816-1825.

Those successive roles followed European settlement of the Northwest Territory, from which the Indiana Territory was carved in 1800.

The capitol building was under construction as the territory prepared for statehood. Among other things, that process involved a formal petition to Congress, adoption of a state constitution, and a minimum population of 60,000.

Territorial delegates crafted Indiana's first Constitution on the site in June 1816, and the first General Assembly convened in the Federal-style building in November 1816. Congress approved Indiana's status as the 19th state on Dec. 11, 1816.

Corydon wasn't new to capital status, having succeeded Vincennes as the territorial capital in 1813. Nor was its status long to last, as the capital was relocated to Indianapolis in 1825, reflecting the population's expansion into lands taken by treaty and arms from Native Americans.

But the capitol building remains as a historic site and museum, and Corydon remains the county seat of Harrison County.

SYNOPSIS

On Jan. 18, 2015, Drapeau entered his mother's apartment and fell asleep in her living room. His mother called the police to report that he was trespassing.

Upon their arrival, the police told Drapeau he had to leave the apartment. Drapeau told the police to leave and turned toward the door himself. One officer then grabbed Drapeau's arm, and he pulled away and swung at her (but missed). The other officer then used a Taser gun on Drapeau.

Drapeau was arrested and charged with attempted battery, forcibly resisting law enforcement, and criminal trespass. Following a bench trial, Drapeau was found guilty of all three crimes.

Drapeau appeals only the criminal trespass and resisting law enforcement convictions, arguing that there was insufficient evidence to support those convictions.

He also argues there was a material and fatal variance between the crime of criminal trespass charged in the information and the theory and evidence of criminal trespass presented at trial.

The Indiana Territory and historic Vincennes

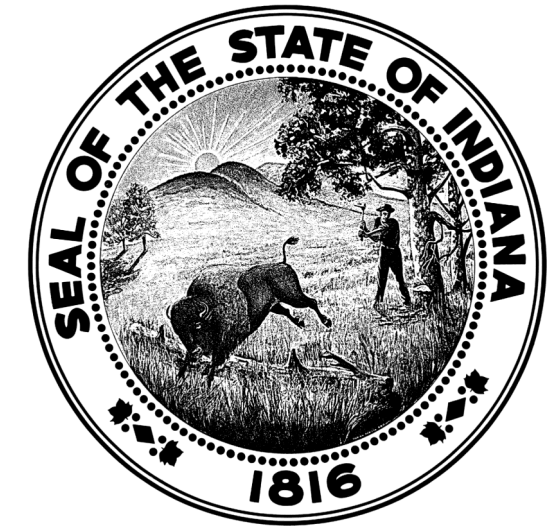
Founded in 1732 when France controlled what is now the Midwest, Vincennes is Indiana's oldest city. France lost the area to Great Britain, which in turn lost it to the Americans in the Revolutionary War. Congress created the Indiana Territory in 1800, with Vincennes as its capital. The new territory was much larger than the State of Indiana today, including what is now Illinois, Michigan, Wisconsin and part of Minnesota.

It was at Vincennes that Gov. William Henry Harrison and others made decisions that influenced the future of the whole Midwest. Westward migration meant conflict with Native Americans who had first claims to the land. It meant enormous land sales, the creation of new counties and, later, new states out of the Indiana Territory.

- Adapted from Indiana State Museum Historic Site-Vincennes

Court of Appeals of Indiana

*Hearing oral argument at
Vincennes University
Tuesday, Jan. 26, 2016 @ 1 p.m.*



*Drapeau v. State
82A01-1506-CR-616*

*On Appeal from Vanderburgh Circuit Court
The Honorable David D. Kiely, Judge*

Indiana Bicentennial 1816-2016

Attorneys for the Parties

For the Appellant

Scott Barnhart grew up in the Evansville area and attended the Indiana University, Bloomington. He graduated from IU’s Kel-ley School of Business and went onto attend the University of Toledo College of Law. While in law school, Mr. Barnhart began working as a law clerk for the State. He graduated *cum laude* from law school, moved to Indianapolis, and accepted a position as an appellate attorney for the State of Indiana in 2005. In that position, Mr. Barnhart was responsible for repre-senting the State in direct and post-conviction appeals. He also served as a deputy prosecuting attorney for Indianapo-lis and worked as a civil rights attorney for the State where he gained significant expe-rience as a trial lawyer in both criminal and civil courts. In 2012, Mr. Barnhart founded Keffer Barnhart LLP where he practices in the areas of civil rights, criminal law, family law, and personal injury law. A significant portion of Mr. Barnhart’s practice is devot-ed to the pursuit of civil rights cases against police departments, jails, prisons, and their respective officers.

For the Appellee

Lyubov Gore has been employed with the Office of the Indiana Attorney General since 2013. She was promoted to the posi-tion of Deputy Attorney General in the Criminal Appeals Section in 2014. Ms. Gore was born in St. Petersburg, Russia and im-migrated to Brooklyn, NY when she was six years old. She attended Fordham Universi-ty, where she received her B.A. *summa cum laude* in Philosophy and English in 2010. Ms. Gore then moved to Bloomington, IN. In 2013, Ms. Gore received her J.D. *cum laude* from the Indiana University Maurer School of Law. During law school, she served as a research assistant to Pro-fessor Robert Heidt and studied abroad at ESADE Law School in Barcelona, Spain. Ms. Gore worked for several general practice law firms and a public interest law firm in New York City. Ms. Gore is admitted to practice in Indiana, as well as the U.S. Dis-trict Courts for the Northern and Southern Districts of Indiana. Ms. Gore resides in Indianapolis with her daughter and hus-band, who is a fellow Deputy Attorney General.

Appeals Court dockets tell Hoosier history

Indiana Appellate Court Reports, Vols. 1, 2, and 3, include the complete written opinions of several hundred cases decided by the Court of Appeals in its first two terms. Naturally, the legal issues before the court were many and varied. But the underlying facts, taken together, paint a vivid picture of Indiana’s economy and society circa 1891 – the same year James Naismith invented basketball.

Agriculture was an economic mainstay, and even city residents maintained livestock. In *The Noblesville Gas and Improvement Company v. Teter*, the court affirmed damages of \$60 against the gas company for the death of Teter’s cow after it fell into an open gas line trench.

The opinion notes that by county and city ordinance, “cows were permitted to run at large within the city (of Noblesville) within the day time.”

Railroads were frequent litigants. *Vols. 1, 2, and 3* record 34 railroad-related appeals, many involving damages to livestock, but also other issues. In a disputed -fare case from Greene County, the court ruled for the railroad but admonished the company “if unnecessary force was used in expelling the appellee from the train.”

Vol. 1 also includes two cases involving **The Western Union Telegraph Co.** One of them, *Western Union v. Trumbull*, cited an 1885 law that anticipates cur-rent legal and policy arguments about **Internet neutrality**.

The relevant passage of the law said that telegraph companies “shall in no man-ner discriminate in rates charged, or words or figures charged for, or manner or conditions of service between any of its patrons, but shall serve individuals, cor-porations and other telegraphic companies with impartiality.”

Then as now, fraught **domestic relations** occupied a significant share of the docket.

In *Story v. Story*, the court affirmed judgment against a father who’d been sued by his daughter for nonpayment of \$3 a week for house and farm work.

Marshall et al v. Bell involved a father’s promissory note for support and maintenance of a “bastard child.”

And in *Adams v. Main*, the court affirmed a trial court’s judgment that the ap-pellant had alienated the affections of the appellee’s wife, even without proof of adultery. Such proof was not required, per the Appeals Court.

Contract disputes comprised a large part of the docket, too, and some of them include telling details about prevailing wages and prices.

In *Greene v. McIntire et al*, the court affirmed judgment against New York City grain merchants who had contracted to buy 20,000 bushels of “grade No. 2 red wheat” from a Knox County farmer. Price: \$14,891, or 74 cents per bushel. (In December 2013, March 2014 wheat deliveries were trading at \$6.39/bushel at the Chicago Board of Trade.)

Orme v. Cooper, a Floyd County case, reported the value of 571 pounds of har-ness leather as \$114.20, or 20 cents per pound.

Mr. Trumbull, the appellant in the *Western Union* case cited above, paid 25 cents for his telegram.

Another case put the value of a Warren County house, lot, furnishings, and various materials and repairs at \$531.85.

Vols. 1, 2, and 3 include just **18 criminal appeals** (all others assigned to the Supreme Court), many involving crimes of vice such as gambling, liquor viola-tions and prostitution (referred to in one case as “a certain house of ill fame” in Valparaiso).

The court affirmed the trial court’s decision 13 times, or 72 percent.

Today’s Panel of Judges



**The Honorable
Edward W. Najam,
Jr.**

Monroe County

Edward W. Najam Jr., was nomi-nated and appointed to the Court of Appeals of Indiana in 1992 and was retained by the electorate in 1996 and 2006. He is presiding judge of the court’s First District, which covers all of southern Indiana.

Judge Najam graduated from the In-diana University High School in Bloomington, where he was raised, and attended Indiana University Bloomington. While at IU, he was elected to Phi Beta Kappa, elected Student Body Pres-ident, and earned a B.A. in political science in 1969, With Highest Distinc-tion. He also received the Herman B Wells Senior Recognition Award for academic excellence and campus lead-ership.

Judge Najam earned his J.D. from the Harvard Law School in 1972. After ad-mission to the Bar, he was Administra-tive Assistant to the Mayor of Bloom-ington for two years and an attorney in private practice for 18 years.

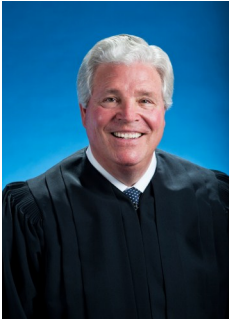
He served as a member of the Civil Justice Reform Act Advisory Group and the Local Rules Advisory Committee of the United States District Court for the Southern District of Indiana.

He was a member of the Bloomington Rotary Club, the Greater Bloomington Chamber of Commerce, and President of the Monroe County YMCA Board of Directors. Judge Najam is a director of the Community Foundation of Bloom-ington and Monroe County.

As Chair of the Appellate Practice Section of the Indiana State Bar Associ-ation, he initiated the Appellate Rules Project, which culminated in a com-plete revision of the Indiana Rules of Appellate Procedure in 2000, the first comprehensive review of the appellate rules in 30 years.

In 2001, he organized and co-chaired

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**The Honorable
John G. Baker**

Monroe County

John G. Baker was named to the Court of Appeals in 1989, which makes him the longest-serving member on the current Court. He has served as Presiding Judge of the Court’s First District, which covers all of southern Indiana, and as Chief Judge of the Court from 2007-2010.

Judge Baker grew up along the Ohio River in Aurora, IN, but attended high school at Culver Military Academy in northern Indiana. He studied history at Indiana University-Bloomington, and later received his law degree from Indiana University School of Law- Bloomington.

He practiced law in Monroe County for many years before joining the Monroe County bench as first a county and later a Superior Court Judge. Dili-gently, he handled more than 15,000 cases in 13 ½ years on Monroe County benches, and has written more than 4,000 majority opinions for the Court of Appeals.

Judge Baker is greatly interested in the history, structure and organization of Indiana’s judicial branch of govern-ment. He regards Indiana judges not as remote figures who conduct ab-stract arguments, but as people fully engaged in the life of the law and their communities.

He has taught in college and law school and is active in local, state and national bar associations. In 2013, Judge Baker retired after 33 years of teaching at the School of Public and Environmental Affairs, Indiana Uni-versity-Bloomington. He continues to teach during the Spring semester at the McKinney School of Law.

Judge Baker’s many community ac-tivities include his church, the YMCA and the Boy Scouts (where he attained Eagle Scout status as a youth).

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**The Honorable
Robert R. Altice, Jr.**

Marion County

Robert R. Altice, Jr., was appoint-ed to the Court of Appeals by Governor Mike Pence and began his service on Sept. 2, 2015.

Judge Altice earned his undergradu-ate degree from Miami University, Ox-ford, OH. Subsequently, he obtained a master’s degree in criminal justice ad-ministration from the University of Central Missouri, where he was hon-ored as “Graduate Student of the Year” in his department. He received his law degree from the University of Missouri-Kansas City School of Law.

Judge Altice’s legal career began in Jackson County, MO, handling felony cases as a deputy prosecutor before be-ing promoted to Chief Deputy Prosecu-tor for the Drug Unit. He then practiced with a Kansas City civil law firm, focus-ing on medical malpractice defense. After moving to Indianapolis, he joined the law firm of Wooden McLaughlin & Sterner, concentrating on insurance defense.

In 1994, Judge Altice returned to prosecution, handling a major felony caseload as a deputy prosecutor for the Marion County Prosecutor’s Office. He served as Chief of the Felony Division from 1997 to 2000, prosecuting a num-ber of high-profile felonies while also providing management support to 35 deputy prosecutors. Judge Altice briefly served as the Office’s Chief Counsel, working with the Indiana General As-sembly to amend laws on domestic bat-tery and possession of firearms by vio-lent felons. As a prosecutor, he tried more than 100 major felony jury trials, including 25 murder cases and count-less bench trials.

Judge Altice was elected to the Marion County bench in 2000 and presided over both criminal and civil dockets. As judge of Marion Superior Court, Crimi-

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